

JOURNAL OF THE HOUSE

EIGHTY-NINTH SESSION

TWENTY-FIFTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Monday, February 24, 2014

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Pastor Mercy Hobbs, followed by the Pledge of Allegiance led by House page Joshua DeGroot.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the twenty-fourth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Brian G. Gosch, Chair

Which motion prevailed.

1 The oath of office was administered by Speaker Gosch to the following named pages:

2 Catherine Chaney, Joshua DeGroot, Nicole Hamilton, Sarah Knust, Mary Martin, Teagan
3 McNary, Madison Mead, Joseph Updike.

4 Which was subscribed to and placed on file in the office of the Secretary of State.

5 **REPORTS OF STANDING COMMITTEES**

6 MR. SPEAKER:

7 The Committee on State Affairs respectfully reports that it has had under consideration
8 HB 1145, 1146, and 1236 and returns the same with the recommendation that said bills do pass.

9 Also MR. SPEAKER:

10 The Committee on State Affairs respectfully reports that it has had under consideration
11 HB 1147 which was tabled.

12 Also MR. SPEAKER:

13 The Committee on State Affairs respectfully reports that it has had under consideration
14 HB 1109 which was deferred to the 41st Legislative Day.

15 Respectfully submitted,
16 David Lust, Chair

17 Also MR. SPEAKER:

18 The Committee on Education respectfully reports that it has had under consideration
19 HB 1075 and returns the same with the recommendation that said bill do pass.

20 Also MR. SPEAKER:

21 The Committee on Education respectfully reports that it has had under consideration
22 HB 1187 and 1243 which were deferred to the 41st Legislative Day.

23 Respectfully submitted,
24 Jacqueline Sly, Chair

1 Also MR. SPEAKER:

2 The Committee on Judiciary respectfully reports that it has had under consideration
3 HB 1165 and returns the same with the recommendation that said bill be amended as follows:

4 1165jd

5 On page 5, line 4, of the printed bill, delete "notice of deployment" and insert "an official
6 order to deploy".

7 On page 6, line 11, delete everything after "child" and insert ". However, if upon return
8 from the deployment either the servicemember or child exhibits a substantial and material
9 change in circumstances that adversely affects the servicemember's ability to adequately care
10 for the child, the best interests of the child shall be determinative.".

11 On page 6, delete line 12.

12 On page 9, line 1, delete "notice of deployment" and insert "an official order to deploy".

13 On page 9, line 6, delete "notice of deployment" and insert "an official order to deploy".

14 On page 13, line 9, after "Act" insert "or a temporary order for child support was entered
15 pursuant to section 22 of this Act".

16 On page 14, after line 14, insert:

17 " Section 32. That § 33-6-10 be repealed.

18 ~~— 33-6-10. A servicemember ordered to deployment, who is the physical custodian or guardian~~
19 ~~of a minor or incapacitated person, may delegate by a properly executed power of attorney to~~
20 ~~another person for a period of one year or less any of the powers regarding care and custody of~~
21 ~~the minor child or ward, except the power to consent to marriage or adoption of a minor ward.~~
22 ~~If the power of attorney lapses prior to the servicemember's release from active duty, the power~~
23 ~~of attorney shall be automatically extended for an additional year unless the servicemember is~~
24 ~~sooner released from active duty. Neither the execution of such a power of attorney pursuant to~~
25 ~~this section, nor the deployment itself, may be considered a factor in considering a substantial~~
26 ~~and material change of circumstances, nor a factor in a best interest of the child determination~~
27 ~~for purposes of permanent child custody modification proceedings. There is hereby imposed an~~
28 ~~automatic stay of all proceedings seeking a permanent change in custody of a minor child where~~
29 ~~the parent with physical custody is a servicemember called to active duty for deployment. Such~~
30 ~~stay shall continue for the period of service due to deployment, unless waived in writing by the~~
31 ~~service member. Nothing in this section precludes a petition by the noncustodial parent to~~
32 ~~temporarily change physical custody, the best interests of the child remains determinative for~~
33 ~~such temporary custody determinations. Any temporary order modifying physical custody of the~~
34 ~~child automatically terminates upon return of the servicemember from deployment and reverts~~
35 ~~back to the custody status or order in effect prior to the deployment. However, if upon return~~
36 ~~from the deployment either the servicemember or child exhibits a substantial and material~~
37 ~~change in circumstances which adversely affects the servicemember's ability to adequately care~~

1 ~~for the child, the best interests of the child shall be determinative. The temporary custody~~
2 ~~provisions of § 25-4A-11 do not apply to the temporary custody provisions of this section."~~

3 And that as so amended said bill do pass.

4 Also MR. SPEAKER:

5 The Committee on Judiciary respectfully reports that it has had under consideration
6 HB 1186, 1258, and 1259 which were deferred to the 41st Legislative Day.

7 Respectfully submitted,
8 Brian G. Gosch, Chair

9 **MESSAGES FROM THE SENATE**

10 MR. SPEAKER:

11 I have the honor to return herewith HB 1021, 1031, 1052, 1082, 1107, 1130, and 1131
12 which have passed the Senate without change.

13 Also MR. SPEAKER:

14 I have the honor to inform your honorable body that the Senate has failed to concur in
15 HCR 1007.

16 Also MR. SPEAKER:

17 I have the honor to transmit herewith SB 38, 99, 102, 118, 152, and 179 which have passed
18 the Senate and your favorable consideration is respectfully requested.

19 Respectfully,
20 Jeannette Schipper, Secretary

21 **MOTIONS AND RESOLUTIONS**

22 Rep. Russell moved that HCR 1020 be deferred to Tuesday, February 25, the
23 26th legislative day.

24 Which motion prevailed.

1 HCR 1021: A CONCURRENT RESOLUTION, Urging the United States Department of
2 Agriculture to withdraw certain rules imperiling the South Dakota livestock industry.

3 Rep. May moved that HCR 1021 as found on page 488 of the House Journal be adopted.

4 The question being on Rep. May's motion that HCR 1021 be adopted.

5 And the roll being called:

6 Yeas 69, Nays 1, Excused 0, Absent 0

7 Yeas:

8 Anderson; Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden;
9 Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar
10 (Jenna); Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);
11 Johns; Kaiser; Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson;
12 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;
13 Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
14 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
15 Wick; Wink; Wismer; Speaker Gosch

16 Nays:

17 Hajek

18 So the motion having received an affirmative vote of a majority of the members-elect, the
19 Speaker declared the motion carried and HCR 1021 was adopted.

20 Rep. Hickey moved that the Committee on State Affairs be instructed to deliver HB 1183
21 to the floor of the House, pursuant to Joint Rule 7-7.

22 Which motion was not supported.

23 Rep. Bolin moved that the Committee on Education be instructed to deliver HB 1187 to
24 the floor of the House, pursuant to Joint Rule 7-7.

25 Which motion was supported and the committee was so instructed.

26 HCR 1022 Introduced by: Representatives Craig, Anderson, Bolin, Cammack, Campbell,
27 Cronin, Duvall, Ecklund, Erickson, Gosch, Greenfield, Haggar (Don), Haggar (Jenna),
28 Heinemann (Leslie), Hickey, Hoffman, Johns, Kaiser, Kopp, Langer, Latterell, Magstadt, May,
29 Mickelson, Nelson, Olson (Betty), Qualm, Rasmussen, Rozum, Schaefer, Schoenfish, Sly,
30 Solum, Stalzer, Steele, Stevens, Tulson, Westra, Wick, and Wink and Senators Rampelberg,
31 Brown, Ewing, Holien, Lederman, Maher, Rave, Rhoden, and Solano

1 A CONCURRENT RESOLUTION, Concerning U.S. EPA-proposed greenhouse gas emission
2 standards for new and existing fossil-fueled power plants.

3 WHEREAS, on June 25, 2013, the President issued a memorandum to the U.S. EPA
4 administrator directing the EPA to propose new source performance standards for greenhouse
5 gases that establish limits for carbon dioxide (CO₂) emissions from new fossil-fuel fired electric
6 generating units, which the administrator did on September 20, 2013; and by the same
7 memorandum directed the administrator to:

8 (1) Issue proposed carbon pollution standards, regulations, or guidelines, as appropriate,
9 for modified, reconstructed, and existing power plants by no later than June 1, 2014;

10 (2) Issue final standards, regulations, or guidelines, as appropriate for modified,
11 reconstructed, and existing power plants by no later than June 1, 2015;

12 (3) Include in the guidelines addressing existing power plants a requirement that states
13 submit to the U.S. EPA the implementation plans required under Section 111(d) of
14 the Clean Air Act and its implementing regulations by no later than June 30, 2016;
15 and

16 WHEREAS, the President instructed the EPA, in its efforts to address carbon emissions
17 from modified, reconstructed, and existing power plants to engage directly with states, and
18 expressly recognized that states "will play a central role in establishing and implementing
19 standards for existing power plants"; and

20 WHEREAS, the President instructed the EPA to work with state agencies to "promote the
21 reliable and affordable provision of electric power through the continued development and
22 deployment of cleaner technologies and by increasing energy efficiency, including through
23 stronger appliance efficiency standards and other measures"; and

24 WHEREAS, EPA is proposing two standards for new fuel-fired utility boilers and IGCC
25 units of 1,100 pounds of CO₂ per gross megawatt-hour over a twelve-operating month period
26 or 1,000-1,050 lbs CO₂/MWh gross over an eighty-four-operating month period, both of which
27 would require new coal units to employ at least partial carbon capture and storage (CCS)
28 technology; and

29 WHEREAS, EPA is proposing two standards for new natural gas-fired stationary
30 combustion units of 1,000 lbs CO₂/MWh gross for units greater than 850 million British
31 thermal units per hour and 1,100 lbs CO₂/MWh gross for units less than or equal to 850
32 mmBtu/hr, neither of which would require the use of any CCS technology; and

33 WHEREAS, the August 2010 report of President Obama's Interagency Task Force on
34 Carbon Capture and Storage determined that CCS technologies "are not ready for widespread
35 implementation primarily because they have not been demonstrated at the scale necessary to
36 establish confidence for power plant application"; and

1 WHEREAS, EPA has failed to establish the CCS is the best system of emission reduction
2 that has been adequately demonstrated, as required by the Clean Air Act and its implementing
3 regulations; and

4 WHEREAS, the U.S. Department of Energy's National Energy Laboratory has found that
5 the application of currently researched CCS technology to new coal-fired power plants could
6 increase the cost of electricity produced by such plants by eighty percent, which would severely
7 impact industrial, commercial, and especially residential consumers; and

8 WHEREAS, the most efficient coal-fired power plants, such as those that use the
9 commercially available ultra-supercritical and supercritical technologies represent the best
10 system of emission reduction that has been adequately demonstrated, but alone would be
11 insufficient to achieve EPA's proposed performance standard; and

12 WHEREAS, South Dakota strongly supports a diversified energy mix in an "all-of-the-
13 above" energy strategy and not an "all-but-one" approach that restricts the future use of coal to
14 generate affordable electricity; and

15 WHEREAS, the new proposal does not correct deficiencies in the standards originally
16 proposed by U.S. EPA in April 2012; and

17 WHEREAS, in 2012 CO2 emissions from U.S. coal-based electric generation were twenty-
18 three percent below 2005 levels according to the U.S. EPA Clean Air Markets Acid Rain
19 Program database; and

20 WHEREAS, currently a large percentage of electricity in the United States is produced by
21 coal-based load power plants, and CO2 emissions from electric generation are continuing to
22 decrease due to retirements of units that are uneconomic to retrofit to comply with other EPA
23 regulations and operate due to market conditions; and

24 WHEREAS, total CO2 emissions for the U.S. have been decreasing and are on track to meet
25 the administration's nonbinding target of seventeen percent below 2005 levels by 2020; and

26 WHEREAS, EPA's proposed requirements do not sufficiently recognize that accumulation
27 of greenhouse gases in the atmosphere is a global issue and global action is required to address
28 it; and

29 WHEREAS, Section 111(d) and its implementing regulations define roles, authority, and
30 discretion for EPA and the states, and EPA is required to establish a procedure so that states are
31 able to use their full authority and discretion to develop performance standards and
32 implementation plans for existing plants based on all flexibility mechanisms available under the
33 Clear Air Act and its implementing regulations; and

34 WHEREAS, Section 111(d) and EPA's current implementing regulations expressly
35 authorize states to take into account factors as the "unreasonable cost of control resulting from
36 plant age, location, or basic process design," "physical impossibility of installing necessary
37 control equipment," and "any other factors specific to the facility or class of facilities that make
38 application of a less stringent standard or final compliance time significantly more reasonable"

1 when making determinations on the application of the appropriate standard of performance to
2 a particular existing source; and

3 WHEREAS, states already have the authority conferred by the Clean Air Act and its
4 implementing regulations to decide and to demonstrate the application of less stringent emission
5 standards or longer compliance schedules than those provided in applicable rules or emission
6 guidelines; and

7 WHEREAS, the states rely on EPA to issue a procedure under Section 111(d) and its
8 implementing regulations that reflects the best system of direct emission reductions at affected
9 facilities taking into account the cost of achieving such reduction and any non-air quality health
10 and environmental impact and energy requirements; and

11 WHEREAS, states have jurisdiction over integrated resource planning and other resource
12 adequacy decisions, processes which ultimately determine the mixes of fuels in state generation
13 portfolios, which differ from state to state; and

14 WHEREAS, states have different mixes of fuels and resources in their existing generation
15 portfolios; and

16 WHEREAS, coal provides affordable and reliable electricity to forty-eight states, including
17 the twenty-nine states that rely on coal to provide more than twenty-five percent of their electric
18 generation and the fifteen states that rely on coal to provide more than fifty percent of their
19 electricity generation; and

20 WHEREAS, states have achieved different levels of CO2 reductions, have diverse
21 economies and energy needs, and face different economic conditions, including states with
22 energy intensive manufacturing industries that provide goods for the entire nation; and

23 WHEREAS, Section 111(d) and its implementing regulations provide discretion for states
24 to maintain the operation of coal-based electricity generating plants through the end of their
25 useful lives that meet environmental performance requirements for conventional and hazardous
26 air pollutants:

27 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
28 Ninth Legislature of the State of South Dakota, the Senate concurring therein, that the South
29 Dakota Legislature urges the Administration and Congress with input from federal agencies to
30 establish a national energy policy that encourages access to and removal of impediments to all
31 available domestic sources of energy so that it is affordable and reliable; and

32 BE IT FURTHER RESOLVED, that the policy should not infringe upon states' authority
33 already provided by the Clean Air Act and its implementing regulations that allows states
34 individually or regionally to take into account the different makeup of existing power generation
35 and resource mix in each state and region and using current regulations that provide for states
36 to be able to demonstrate less stringent emission standards and longer compliance schedules for
37 affected facilities; and

1 BE IT FURTHER RESOLVED, that the policy should recognize state and regional
2 variations in the provision of affordable and reliable electricity so that each state can minimize
3 compliance costs to ratepayers and maintain reliability.

4 Was read the first time and the Speaker waived the committee referral.

5 HCR 1023 Introduced by: Representatives Nelson, Anderson, Bolin, Campbell, Craig,
6 Ecklund, Greenfield, Haggar (Don), Haggar (Jenna), Hickey, Kaiser, Kopp, Latterell, May,
7 Olson (Betty), Qualm, Russell, Schaefer, Stalzer, Steele, and Verchio and Senators Jensen,
8 Begalka, and Maher

9 A CONCURRENT RESOLUTION, Rejecting the Common Core State Standards plan.

10 WHEREAS, the Common Core State Standards (CCSS) are a set of academic standards,
11 promoted and supported by two private membership organizations, the National Governors
12 Association (NGA) and the Council of Chief State School Officers (CCSSO), as a method that
13 requires American students to conform to uniform, one-size-fits-all achievement goals to make
14 students more competitive in a global marketplace; and

15 WHEREAS, the NGA and the CCSSO received tens of millions of dollars from private third
16 parties to advocate for and develop the CCSS strategy and subsequently created the CCSS
17 through a process that was not subject to any freedom of information acts or other sunshine
18 laws; and

19 WHEREAS, even though federal law prohibits the federalizing of curriculum, the Obama
20 Administration accepted the CCSS plan and used 2009 Stimulus Bill money to reward the states
21 that were most committed to the President's CCSS agenda, but the administration failed to give
22 states, their legislatures, and their citizens time to evaluate the CCSS before having to commit
23 to them; and

24 WHEREAS, the NGA and the CCSSO, in concert with the same corporations developing
25 the CCSS assessments have created new textbooks, digital media, and other teaching materials
26 aligned to the standards, which must be purchased and adopted by local school districts in order
27 that students may effectively compete on CCSS assessments; and

28 WHEREAS, the CCSS program includes federally funded testing and the collection and
29 sharing of massive amounts of personal student and teacher data; and

30 WHEREAS, the CCSS effectively removes educational choice and competition since all
31 schools and all districts must use Common Core assessments based on the CCSS to allow all
32 students to advance in the school system and to advance to higher education pursuits:

33 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
34 Ninth Legislature of the State of South Dakota, the Senate concurring therein, that the South
35 Dakota Legislature does not believe in a one-size-fits-all approach to education and supports
36 providing broad education choices to parents and children at the state and local levels, which

1 is best based on a free market approach to education for students to achieve individual
2 excellence; and

3 BE IT FURTHER RESOLVED, that the Legislature recognizes the CCSS for what they are,
4 an inappropriate overreach to standardize and control the education of our children so they will
5 conform to a preconceived normal; and

6 BE IT FURTHER RESOLVED, that the Legislature rejects the collection of personal
7 student data for any noneducational purpose without the prior written consent of an adult student
8 or a child student's parent, with any person or entity other than schools or education agencies
9 within the state; and

10 BE IT FURTHER RESOLVED, that the Legislature recognizes the need to repeal the
11 numerous federal regulations that interfere with state and local control of public school.
12 Therefore, the Legislature rejects this CCSS plan which creates and fits the country with a
13 nationwide straitjacket on academic freedom and achievement.

14 Was read the first time and the Speaker waived the committee referral.

15 HCR 1024 Introduced by: Representatives Nelson, Anderson, Bolin, Campbell, Craig,
16 Greenfield, Haggar (Don), Haggar (Jenna), Hickey, Kaiser, Kopp, Latterell, Magstadt, May,
17 Olson (Betty), Qualm, Russell, Stalzer, Steele, Verchio, and Westra and Senators Begalka,
18 Jensen, and Otten (Ernie)

19 A CONCURRENT RESOLUTION, Petitioning President Obama to publicly condemn China
20 for its aggressive program of cyber warfare and espionage against the United States of
21 America.

22 WHEREAS, China has a well-documented program of cyber espionage targeted at the
23 United States military and the defense and civilian industrial base; and

24 WHEREAS, United States national intelligence chief James Clapper said that there is "a
25 remote chance of a major cyber attack against United States critical infrastructure systems
26 during the next two years that would result in long-term, wide-scale disruption of services, such
27 as a regional power outage"; and

28 WHEREAS, CIA Director John Brennan has stated that "the seriousness and the diversity
29 of the threats that this country faces in the cyber domain are increasing on a daily basis"; and

30 WHEREAS, United States security firm Mandiant reported a unit of China's People's
31 Liberation Army had stolen hundreds of terabytes of data from at least 141 organizations, mostly
32 based in the United States; and

33 WHEREAS, National Security Adviser Tom Donilon said that United States businesses are
34 growing more concerned "about sophisticated, targeted theft of confidential business
35 information through cyber intrusions emanating from China at a very large scale"; and

1 WHEREAS, these acts threaten the security of South Dakota and the United States and
2 threaten the world-wide economic competitiveness of our country's industrial base; and

3 WHEREAS, China has denied such reports and says it is a victim of cyber spying by the
4 United States government; and

5 WHEREAS, President Obama has only indirectly confronted China, and by his refusal to
6 openly identify China as the primary state actor conducting cyber warfare against the United
7 States, implicitly encourages their continuance:

8 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
9 Ninth Legislature of the State of South Dakota, the Senate concurring therein, that the South
10 Dakota Legislature condemns China for its aggressive program of cyber warfare and espionage
11 against the United States of America, and its denial of those acts; and

12 BE IT FURTHER RESOLVED, that the South Dakota Legislature calls on President Obama
13 to publicly condemn China for its aggressive program of cyber warfare and espionage and to be
14 clear about how the United States will respond to the use of strategic cyber weapons on
15 American soil, in the military sphere; and

16 BE IT FURTHER RESOLVED, that the South Dakota Legislature calls on President Obama
17 to begin to match his words with actions and take actions necessary to cause China to cease
18 these acts.

19 Was read the first time and the Speaker waived the committee referral.

20 **CONSIDERATION OF REPORTS OF COMMITTEES**

21 Rep. Lust moved that the reports of the Standing Committees on

22 Agriculture and Natural Resources on HB 1208 as found on page 480 of the House Journal;
23 also

24 Education on HB 1256 as found on page 482 of the House Journal; also

25 Judiciary on HB 1161 as found on page 483 of the House Journal; also

26 Appropriations on HB 1040 as found on page 483 of the House Journal; also

27 Appropriations on HB 1112 as found on page 485 of the House Journal; also

28 Appropriations on HB 1175 as found on page 485 of the House Journal be adopted.

29 Which motion prevailed.

1 Rep. May moved that HB 1215 be placed on today's calendar, pursuant to Joint Rule 6F-6.

2 The question being on Rep. May's motion that HB 1215 be placed on today's calendar,
3 pursuant to Joint Rule 6F-6.

4 And the roll being called:

5 Yeas 55, Nays 15, Excused 0, Absent 0

6 Yeas:

7 Anderson; Bolin; Cammack; Campbell; Conzet; Craig; Ecklund; Erickson; Feickert; Feinstein;
8 Gibson; Haggar (Don); Haggar (Jenna); Heinemann (Leslie); Heinert; Hickey; Hoffman; Johns;
9 Kaiser; Killer; Kopp; Langer; Latterell; Magstadt; May; Mickelson; Munsterman; Nelson;
10 Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen;
11 Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum;
12 Stalzer; Steele; Stevens; Tulson; Tyler; Werner; Westra; Wick; Wink; Speaker Gosch

13 Nays:

14 Bartling; Carson; Cronin; Dryden; Duvall; Greenfield; Hajek; Hawks; Hawley; Hunhoff
15 (Bernie); Kirschman; Lust; Ring; Verchio; Wismer

16 So the motion having received an affirmative vote of a majority of the members-elect, the
17 Speaker declared the motion carried and HB 1215 was so placed.

18 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

19 SB 38: FOR AN ACT ENTITLED, An Act to revise the state aid to special education
20 formula.

21 Was read the first time and referred to the Committee on Appropriations.

22 SB 99: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding self-
23 funded multiple employer trusts.

24 Was read the first time and referred to the Committee on Commerce and Energy.

25 SB 102: FOR AN ACT ENTITLED, An Act to provide that, upon completion of certain
26 proceedings, magistrate judges may return or dispose of property taken in as evidence.

27 Was read the first time and referred to the Committee on Judiciary.

SB 118: FOR AN ACT ENTITLED, An Act to revise certain criminal penalties for intentional damage to private property.

Was read the first time and referred to the Committee on Judiciary.

SB 152: FOR AN ACT ENTITLED, An Act to make an appropriation to provide full funding of the cement plant retirement plan, to consolidate the cement plant retirement plan with the South Dakota Retirement System, and to declare an emergency.

Was read the first time and referred to the Committee on Appropriations.

SB 179: FOR AN ACT ENTITLED, An Act to prohibit the use of certain handheld electronic wireless devices for electronic messaging while driving.

Was read the first time.

SECOND READING OF CONSENT CALENDAR ITEMS

SB 50: FOR AN ACT ENTITLED, An Act to authorize rule-making authority to establish record-keeping requirements for insurers and producers.

Was read the second time.

The question being "Shall SB 50 pass?"

And the roll being called:

Yeas 70, Nays 0, Excused 0, Absent 0

Yeas:

Anderson; Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Wismer; Speaker Gosch

So the bill having received an affirmative vote of a majority of the members-elect, the Speaker declared the bill passed and the title was agreed to.

1 SB 52: FOR AN ACT ENTITLED, An Act to authorize the informal settlement of
2 insurance examinations.

3 Was read the second time.

4 The question being "Shall SB 52 pass?"

5 And the roll being called:

6 Yeas 70, Nays 0, Excused 0, Absent 0

7 Yeas:

8 Anderson; Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden;
9 Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar
10 (Jenna); Hajek; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
11 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May;
12 Mickelson; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
13 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
14 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
15 Wick; Wink; Wismer; Speaker Gosch

16 So the bill having received an affirmative vote of a majority of the members-elect, the
17 Speaker declared the bill passed and the title was agreed to.

18 SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

19 Rep. Lust moved that HB 1111 be placed to precede HB 1134 on today's calendar.

20 Which motion prevailed.

21 HB 1111: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the
22 design, construction, and equipping of a veterans home near Hot Springs, to make an
23 appropriation therefor, and to declare an emergency.

24 Was read the second time.

1 1111nc

2 Rep. Bolin moved that HB 1111 be amended as follows:

3 On the printed bill, delete everything after the enacting clause and insert:

4 " Section 1. There is hereby appropriated from the general fund the sum of sixteen million
5 three hundred sixty-five thousand forty-four dollars (\$16,365,044), or so much thereof as may
6 be necessary, to the railroad trust fund created by § 49-16C-1 for the purposes of planning,
7 enlarging, maintaining, equipping, and protecting railroads and railroad facilities.

8 Section 2. The secretary of the Department of Transportation shall approve vouchers and
9 the state auditor shall draw warrants to pay expenditures authorized by this Act.

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall
11 revert in accordance with the procedures prescribed in chapter 4-8.

12 Section 4. Whereas, this Act is necessary for the support of the state government and its
13 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
14 full force and effect from and after its passage and approval."

15 The Speaker ruled the motion to amend out of order, pursuant to Joint Rule 6E-1.

16 The question being "Shall HB 1111 pass?"

17 And the roll being called:

18 Yeas 70, Nays 0, Excused 0, Absent 0

19 Yeas:

20 Anderson; Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden;
21 Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar
22 (Jenna); Hajek; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
23 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May;
24 Mickelson; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
25 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
26 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
27 Wick; Wink; Wismer; Speaker Gosch

28 So the bill having received an affirmative vote of a two-thirds majority of the members-
29 elect, the Speaker declared the bill passed and the title was agreed to.

30 HB 1134: FOR AN ACT ENTITLED, An Act to clarify certain municipal powers.

31 Was read the second time.

1 The question being "Shall HB 1134 pass as amended?"

2 And the roll being called:

3 Yeas 68, Nays 2, Excused 0, Absent 0

4 Yeas:

5 Anderson; Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden;
6 Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar
7 (Jenna); Hajek; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
8 (Bernie); Johns; Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson;
9 Munsterman; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm;
10 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly;
11 Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink;
12 Wismer; Speaker Gosch

13 Nays:

14 Kaiser; Nelson

15 So the bill having received an affirmative vote of a majority of the members-elect, the
16 Speaker declared the bill passed and the title was agreed to.

17 HB 1142: FOR AN ACT ENTITLED, An Act to enhance the support for public
18 postsecondary technical institutes and to make an appropriation therefor.

19 Was read the second time.

20 The question being "Shall HB 1142 pass as amended?"

21 And the roll being called:

22 Yeas 63, Nays 6, Excused 1, Absent 0

23 Yeas:

24 Anderson; Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Dryden; Duvall; Ecklund;
25 Erickson; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Hawks;
26 Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Killer;
27 Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson; Munsterman; Nelson;
28 Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring;
29 Romkema; Rounds; Rozum; Schaefer; Schoenfish; Sly; Soli; Solum; Stalzer; Steele; Stevens;
30 Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Speaker Gosch

31 Nays:

32 Cronin; Feickert; Kaiser; Russell; Schrempp; Wismer

33 Excused:

34 Carson

1 So the bill having received an affirmative vote of a two-thirds majority of the members-
2 elect, the Speaker declared the bill passed and the title was agreed to.

3 HB 1166: FOR AN ACT ENTITLED, An Act to revise the telecommunications services
4 program to include current and developing technology.

5 Was read the second time.

6 The question being "Shall HB 1166 pass as amended?"

7 And the roll being called:

8 Yeas 61, Nays 8, Excused 1, Absent 0

9 Yeas:

10 Anderson; Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall;
11 Ecklund; Erickson; Feickert; Feinstein; Gibson; Haggar (Don); Haggar (Jenna); Hajek; Hawks;
12 Hawley; Heinemann (Leslie); Hickey; Hoffman; Hunhoff (Bernie); Johns; Killer; Kirschman;
13 Kopp; Langer; Lust; Magstadt; May; Mickelson; Munsterman; Novstrup (David); Otten
14 (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell;
15 Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Stevens; Tulson; Tyler; Verchio;
16 Werner; Westra; Wink; Wismer; Speaker Gosch

17 Nays:

18 Greenfield; Heinert; Kaiser; Latterell; Nelson; Olson (Betty); Steele; Wick

19 Excused:

20 Carson

21 So the bill having received an affirmative vote of a majority of the members-elect, the
22 Speaker declared the bill passed and the title was agreed to.

23 HB 1129: FOR AN ACT ENTITLED, An Act to prohibit the use of certain explosive
24 targets in the Black Hills Forest Fire Protection District.

25 Was read the second time.

26 The question being "Shall HB 1129 pass as amended?"

27 And the roll being called:

28 Yeas 56, Nays 13, Excused 1, Absent 0

1 Yeas:

2 Anderson; Bartling; Bolin; Cammack; Campbell; Craig; Dryden; Duvall; Ecklund; Erickson;
3 Feickert; Feinstein; Gibson; Haggar (Don); Haggar (Jenna); Hajek; Hawks; Hawley; Heinemann
4 (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Killer; Kirschman; Kopp; Langer;
5 Lust; Magstadt; May; Mickelson; Munsterman; Novstrup (David); Olson (Betty); Otten
6 (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Schaefer;
7 Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Stevens; Tyler; Werner; Wick; Wismer

8 Nays:

9 Conzet; Cronin; Greenfield; Kaiser; Latterell; Nelson; Russell; Steele; Tulson; Verchio; Westra;
10 Wink; Speaker Gosch

11 Excused:

12 Carson

13 So the bill having received an affirmative vote of a majority of the members-elect, the
14 Speaker declared the bill passed and the title was agreed to.

15 HB 1085: FOR AN ACT ENTITLED, An Act to revise certain property tax levies for the
16 general fund of school districts.

17 Was read the second time.

18 The question being "Shall HB 1085 pass?"

19 And the roll being called:

20 Yeas 69, Nays 0, Excused 1, Absent 0

21 Yeas:

22 Anderson; Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall;
23 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
24 Hajek; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);
25 Johns; Kaiser; Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson;
26 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;
27 Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
28 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
29 Wick; Wink; Wismer; Speaker Gosch

30 Excused:

31 Carson

32 So the bill having received an affirmative vote of a majority of the members-elect, the
33 Speaker declared the bill passed and the title was agreed to.

1 HB 1244: FOR AN ACT ENTITLED, An Act to assist certain qualified employees with
2 health insurance and to make an appropriation therefor.

3 Was read the second time.

4 1244jd

5 Rep. Munsterman moved that HB 1244 be amended as follows:

6 On page 4 of the House Health and Human Services Committee engrossed bill, delete lines
7 6 to 17, inclusive.

8 Which motion prevailed.

9 1244je

10 Rep. Hunhoff moved that HB 1244 be further amended as follows:

11 On the House Health and Human Services Committee engrossed bill, delete everything
12 after the enacting clause and insert:

13 " Section 1. The Department of Social Services shall include in its plan for medical assistance
14 services pursuant to Title XIX of the United States Social Security Act and any amendments
15 thereto a provision for coverage of individuals in South Dakota meeting criteria as specified
16 under Section 2001(a) of the Patient Protection and Affordable Care Act (P.L. 111-148), as
17 amended by the Health Care and Education and Reconciliation Act of 2010 (P.L. 111-152). This
18 provision shall expire if federal financial participation for the expanded program is reduced
19 below 90 percent."

20 A roll call vote was requested and supported.

21 The question being on Rep. Hunhoff 's motion that HB 1244 be further amended.

22 And the roll being called:

23 Yeas 19, Nays 50, Excused 1, Absent 0

24 Yeas:

25 Bartling; Feickert; Feinstein; Gibson; Hawks; Hawley; Heinert; Hunhoff (Bernie); Killer;
26 Kirschman; Parsley; Peterson; Ring; Schoenfish; Schrempp; Soli; Tyler; Wink; Wismer

1 Nays:

2 Anderson; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;
3 Erickson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Heinemann (Leslie); Hickey;
4 Hoffman; Johns; Kaiser; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson;
5 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Qualm; Rasmussen;
6 Romkema; Rounds; Rozum; Russell; Schaefer; Sly; Solum; Stalzer; Steele; Stevens; Tulson;
7 Verchio; Werner; Westra; Wick; Speaker Gosch

8 Excused:

9 Carson

10 So the motion not having received an affirmative vote of a majority of the members
11 present, the Speaker declared the motion lost.

12 Rep. Lust moved the previous question.

13 Which motion prevailed.

14 The question being "Shall HB 1244 pass as amended?"

15 And the roll being called:

16 Yeas 24, Nays 45, Excused 1, Absent 0

17 Yeas:

18 Bartling; Conzet; Ecklund; Feickert; Gibson; Hawks; Hawley; Heinemann (Leslie); Hickey;
19 Hunhoff (Bernie); Killer; Kirschman; Lust; Magstadt; Munsterman; Parsley; Peterson; Ring;
20 Rozum; Schoenfish; Sly; Soli; Steele; Wismer

21 Nays:

22 Anderson; Bolin; Cammack; Campbell; Craig; Cronin; Dryden; Duvall; Erickson; Feinstein;
23 Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Heinert; Hoffman; Johns; Kaiser; Kopp;
24 Langer; Latterell; May; Mickelson; Nelson; Novstrup (David); Olson (Betty); Otten (Herman);
25 Qualm; Rasmussen; Romkema; Rounds; Russell; Schaefer; Schrempp; Solum; Stalzer; Stevens;
26 Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Speaker Gosch

27 Excused:

28 Carson

29 So the bill not having received an affirmative vote of a two-thirds majority of the members-
30 elect, the Speaker declared the bill lost.

1 HB 1257: FOR AN ACT ENTITLED, An Act to clarify certain autism spectrum disorders
2 insurance coverage.

3 Was read the second time.

4 The question being "Shall HB 1257 pass as amended?"

5 And the roll being called:

6 Yeas 57, Nays 12, Excused 1, Absent 0

7 Yeas:

8 Bartling; Bolin; Campbell; Conzet; Craig; Dryden; Duvall; Ecklund; Erickson; Feickert;
9 Feinstein; Gibson; Haggar (Don); Haggar (Jenna); Hajek; Hawks; Hawley; Heinemann (Leslie);
10 Heinert; Hickey; Hoffman; Hunhoff (Bernie); Killer; Kirschman; Kopp; Langer; Magstadt;
11 May; Mickelson; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman);
12 Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rozum; Schaefer; Schoenfish;
13 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Werner; Westra; Wink;
14 Wismer; Speaker Gosch

15 Nays:

16 Anderson; Cammack; Cronin; Greenfield; Johns; Kaiser; Latterell; Lust; Rounds; Russell;
17 Verchio; Wick

18 Excused:

19 Carson

20 So the bill having received an affirmative vote of a majority of the members-elect, the
21 Speaker declared the bill passed and the title was agreed to.

22 HB 1096: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
23 challenging of certain election petitions.

24 Was read the second time.

25 The question being "Shall HB 1096 pass as amended?"

26 And the roll being called:

27 Yeas 41, Nays 28, Excused 1, Absent 0

28 Yeas:

29 Anderson; Cammack; Conzet; Cronin; Dryden; Duvall; Ecklund; Erickson; Haggar (Don);
30 Hajek; Heinemann (Leslie); Hoffman; Johns; Langer; Lust; Magstadt; May; Mickelson;
31 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Qualm; Rasmussen;
32 Romkema; Rounds; Rozum; Schaefer; Schoenfish; Sly; Solum; Stalzer; Steele; Stevens; Tulson;
33 Werner; Westra; Wick; Wink; Speaker Gosch

1 Nays:

2 Bartling; Bolin; Campbell; Craig; Feickert; Feinstein; Gibson; Greenfield; Haggar (Jenna);
3 Hawks; Hawley; Heinert; Hickey; Hunhoff (Bernie); Kaiser; Killer; Kirschman; Kopp; Latterell;
4 Parsley; Peterson; Ring; Russell; Schrempp; Soli; Tyler; Verchio; Wismer

5 Excused:

6 Carson

7 So the bill having received an affirmative vote of a majority of the members-elect, the
8 Speaker declared the bill passed and the title was agreed to.

9 HB 1164: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding school
10 board opening day decision petitions.

11 Was read the second time.

12 The question being "Shall HB 1164 pass as amended?"

13 And the roll being called:

14 Yeas 57, Nays 12, Excused 1, Absent 0

15 Yeas:

16 Cammack; Campbell; Conzet; Craig; Dryden; Duvall; Ecklund; Erickson; Feickert; Feinstein;
17 Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Heinert; Hickey; Hoffman; Johns; Kaiser;
18 Killer; Kirschman; Kopp; Langer; Latterell; Lust; Magstadt; May; Mickelson; Munsterman;
19 Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Qualm; Ring; Romkema; Rounds;
20 Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens;
21 Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Wismer; Speaker Gosch

22 Nays:

23 Anderson; Bartling; Bolin; Cronin; Gibson; Hawks; Hawley; Heinemann (Leslie); Hunhoff
24 (Bernie); Parsley; Peterson; Rasmussen

25 Excused:

26 Carson

27 So the bill having received an affirmative vote of a majority of the members-elect, the
28 Speaker declared the bill passed and the title was agreed to.

29 Rep. Lust moved that the balance of the calendar including HB 1194, 1038, 1203, and 1215
30 and SB 12, 64, 55, 27, 31, 32, 63, 14, 89, 93, 103, 29, 54, and 59 be deferred to Tuesday,
31 February 25, the 26th legislative day.

32 Which motion prevailed.

2 REPORTS OF STANDING COMMITTEES

26 HB 1082: FOR AN ACT ENTITLED, An Act to revise the conditions causing the
27 suspension of a probationer's probationary period.

1 HB 1107: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete
2 provisions regarding restraint of trade.

3 HB 1130: FOR AN ACT ENTITLED, An Act to authorize the use of crossbows for
4 hunting big game animals during the firearm season.

5 HB 1131: FOR AN ACT ENTITLED, An Act to clarify that a credit card is not required
6 to establish a revolving credit account.

7 SB 78: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete
8 provisions regarding the Commissioner of South Dakota.

9 SB 79: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete
10 provisions regarding the federal census.

11 And signed the same in the presence of the House.

12 Rep. Steele moved that the House do now adjourn, which motion prevailed and at
13 5:15 p.m. the House adjourned.

14 Arlene Kvislen, Chief Clerk